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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13 WAYMO LLC,

14 Plaintiff,

15 vs.

16 UBER TECHNOLOGIES, INC.;  
17 OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

18 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S RESPONSE  
TO THE COURT'S APRIL 4, 2017  
ORDER RE ARBITRATION  
AGREEMENT (DKT. 142)**

1 Plaintiff Waymo LLC files this Response to the Court's Order to make a statement under oath  
2 regarding whether Waymo LLC, Waymo Holding, Inc., Google Inc. and/or Alphabet Inc. have ever  
3 demanded an arbitration despite not being a signatory to the relevant contract(s) containing the  
4 asserted arbitration clause(s).

5 In response to the Court's Order, please find attached two declarations, one from Thomas Lue  
6 and another from William Berry.

7 The declaration of Mr. Berry discloses four matters that arguably are responsive to the Court's  
8 Order. That said, Waymo does not believe they are relevant to the captioned case, nor to Defendants'  
9 pending motion to compel. That is for a few reasons.

10 First, the only historical scenarios that are potentially responsive to the Court's Order pertain  
11 to Google Inc., and/or Alphabet Inc. Neither of those entities is a party to this lawsuit.

12 Second, in Defendants' motion to compel, they argue that this Court should compel arbitration  
13 of claims between a collection of parties (the named parties to this case) on the basis of an arbitration  
14 clause that is contained in agreement(s) to which **none** of the named parties was a signatory. That kind  
15 of scenario—asserting a contractual arbitration clause to cover litigation claims between parties, when  
16 none of the parties is a signatory to the relevant contract—is nowhere present in the history of Waymo  
17 LLC, Waymo Holding, Google or Alphabet.

18 Third, the specifics of the four scenarios disclosed by Mr. Berry support their non-relevance.  
19 In the **DoubleClick** matter, Google Inc. served an arbitration demand pursuant to a contract with an  
20 arbitration clause, despite Google Inc. not having signed that contract. And yet Google had acquired  
21 (and was expressly labeled the successor-in-interest of) the contract signatory. Thus, while Google  
22 was not a signatory to the contract containing the arbitration clause, Google as the successor-in-  
23 interest on the contract was entitled to assert its terms. No such circumstances are present in this case.

24 Likewise, in the **Abreu** matter, Google Inc. moved to compel arbitration. And yet Google did  
25 so as the acquirer and successor-in-interest of the co-defendant (Slide, Inc.), whose Terms of Use  
26 included the relevant arbitration clause. Thus, while Google was not a "signatory" to the contract  
27 containing the arbitration clause, it was the owner and successor of the contract signatory. That is not  
28 the case here.

1 In the **RIM/BlackBerry** scenario, Google Inc. again was not a “signatory” to the relevant  
2 contract, and yet again Google had acquired an entity (“MMI”) that was a party to and/or entitled to  
3 express license rights under the contract. That is not the case here.

4 Finally, in the **Hart** lawsuit, Google Inc. was not a signatory to the contract pursuant to which  
5 arbitration was demanded. And yet, in that case, **all parties** to the dispute (including the named  
6 plaintiff(s) and the co-defendant, the party that was a signatory to the contract containing an  
7 arbitration clause) agreed that arbitration was proper. Indeed, the named plaintiff(s) **and** Google’s co-  
8 defendant filed motions to compel arbitration. After those motions to compel arbitration were filed,  
9 Google for its part filed a motion to dismiss or stay the lawsuit. In doing so, Google submitted certain  
10 arguments regarding an alleged joint-employer’s rights to enforce an arbitration clause entered into by  
11 the other alleged joint-employer. But those facts are far afield from the present case.

12  
13 DATED: April 10, 2017

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

14  
15 By /s/ Charles K. Verhoeven

Charles K. Verhoeven

16 Attorneys for WAYMO LLC  
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